

1	UNITED STATES DISTRICT COURT	
2	DISTRICT OF NEVADA	
3	BRUCE BIRCH,	Case No. 3:20-cv-00544-GMN-CLB
4	Plaintiff,	<b>ORDER</b>
5	v.	
6	WILLIAM GITTERE, <i>et al.</i> ,	
7	Defendants.	
8		

9 **I. DISCUSSION**

10 On September 23, 2020, Plaintiff, then an inmate in the custody of the Nevada  
11 Department of Corrections (“NDOC”), initiated this prisoner civil rights action pursuant to  
12 42 U.S.C. § 1983. (ECF No. 1-1.)

13 On January 14, 2021, following judicial notice of the suggestion of death on the  
14 record filed in another case (3:19-cv-00043-MMD-CLB at ECF No. 150) in which Bruce  
15 Birch (#61203) was the plaintiff, the Court issued an order allowing a 90-day period from  
16 the date of that order for a motion for substitution to be filed by any party or by the  
17 decedent’s successor or representative. (ECF No. 4).

18 Pursuant to Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim  
19 is not extinguished, the court may order substitution of the proper party. A motion for  
20 substitution may be made by any party or by the decedent’s successor or representative.  
21 If the motion is not made within 90 days after service of a statement noting the death, the  
22 action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1).

23 The 90-day period has expired and there has been no motion for substitution. As  
24 such, the Court dismisses the case.

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## II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that the Court dismisses this case pursuant to Fed. R. Civ. P. 25(a)(1).

IT IS FURTHER ORDERED that the Clerk of the Court will close the case and enter judgment accordingly.

DATED: April 15, 2021

GLORIA M. NAVARRO  
UNITED STATES DISTRICT JUDGE